

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE**

FUSION ELITE ALL STARS, et al.,

Plaintiffs,

v.

VARSITY BRANDS, LLC, et al.,

Defendants.

Civ. Action No. 2:20-cv-02600

JESSICA JONES, et al.,

Plaintiffs,

v.

BAIN CAPITAL PRIVATE EQUITY, et al.

Defendants.

Civ. Action No. 2:20-cv-02892

AMERICAN SPIRIT AND CHEER
ESSENTIALS, INC., et al.,

Plaintiffs,

v.

VARSITY BRANDS, LLC, et al.,

Defendants.

Civ. Action No. 2:20-cv-02782

JOINT MOTION TO MODIFY SCHEDULING ORDERS

COME NOW all Plaintiffs and all Defendants in the above-captioned cases and move this Court for an order extending the deadline to complete depositions set forth in the Amended Scheduling Orders entered in the above-captioned matters (the “Related Actions”) by one day to

April 19, 2022. Such extension shall be limited to the deposition of Sheila Noone. All other deadlines, including any other extensions previously ordered by the Court, shall remain in place.

In support of this motion, the parties state as follows:

1. The Scheduling Orders previously entered by this court provided that fact discovery and depositions currently must be completed in all Related Actions by April 18, 2022. The Scheduling Orders further provide that no requests for extensions of these deadlines will be granted absent extraordinary circumstances. (No. 20-cv-2600, Dkt. 177; No. 20-cv-2782, Dkt. 159; No. 20-cv-02892, Dkt. 175).

2. Plaintiffs issued a subpoena to take the deposition of Sheila Noone. The deposition was scheduled for April 14, 2022.

3. Early in the morning of April 14, 2022, counsel for the *Fusion Elite* Plaintiffs had a family medical emergency when one of his children was unexpectedly hospitalized.

4. In light of the unforeseen emergency circumstances, the parties agreed to suspend the deposition at the conclusion of the questioning of counsel for the *Jones* Plaintiffs, and resume the following week with questions from the *Fusion Elite* Plaintiffs.

5. The parties were unable to schedule the resumption of the deposition of Sheila Noone for Monday, April 18, 2022 but were able to schedule it to resume on Tuesday, April 19, 2022. The parties have agreed that upon the resumption of the deposition on April 19, 2022, Plaintiffs shall collectively have three and one half hours of remaining deposition time for Ms. Noone.

The parties believe that the nature of counsel's family medical emergency constitutes an extraordinary circumstance, and respectfully request that this Court grant the instant Motion and

enter the attached proposed order extending existing deadline to conclude depositions, limited to the deposition of Sheila Noone, by one day to April 19, 2022.

Dated: April 18, 2022

Respectfully submitted,

By: /s/ Benjamin A. Gastel

J. Gerard Stranch, IV (TN BPR #23045)

Benjamin A. Gastel (TN BPR #28699)

BRANSTETTER, STRANCH

& JENNINGS, PLLC

223 Rosa Parks Ave. Suite 200

Nashville, TN 37203

Telephone: (615) 254-8801

gerards@bsjfirm.com

beng@bsjfirm.com

*Liaison Counsel in the Fusion Elite Action
for the Proposed Direct Purchaser Class*

Gregory S. Asciolla*

Karin E. Garvey*

Veronica Bosco*

DICELLO LEVITT GUTZLER

60 East 42nd Street, Suite 2400

New York, NY 10165

Telephone: (646) 933-1000

gasciolla@dicellolevitt.com

kgarvey@dicellolevitt.com

vbosco@dicellolevitt.com

Jonathan W. Cuneo*

Victoria Sims*

CUNEO GILBERT & LADUCA, LLP

4725 Wisconsin Avenue NW, Suite 200

Washington, DC 20016

Telephone: (202) 789-3960

jonc@cuneolaw.com

vicky@cuneolaw.com

H. Laddie Montague, Jr.*

Eric L. Cramer*

Mark R. Suter*

BERGER MONTAGUE PC

1818 Market Street, Suite 3600

Philadelphia, PA 19106
Telephone: (215) 875-3000
hlmontague@bm.net
ecramer@bm.net
msuter@bm.net

*Interim Co-Lead Counsel in the Fusion Elite Action
for the Proposed Direct Purchaser Class*

Benjamin D. Elga*
JUSTICE CATALYST LAW, INC.
81 Prospect Street
Brooklyn, NY 11201
Telephone: (518) 732-6703
belga@justicecatalyst.org

Craig L. Briskin*
JUSTICE CATALYST LAW, INC.
718 7th Street NW
Washington, DC 20001
Telephone: (518) 732-6703
cbriskin@justicecatalyst.org

Roberta D.
Liebenberg*
Jeffrey S. Istvan*
Mary L. Russell*
FINE KAPLAN AND BLACK, R.P.C.
One South Broad St., 23rd Floor
Philadelphia, PA 19107
Telephone: (215) 567-6565
rliebenberg@finekaplan.com
jistvan@finekaplan.com
mrussell@finekaplan.com

Nathan A. Bicks (TN BPR #10903)
Sarah E. Stuart (TN BPR # 035329)
BURCH, PORTER, & JOHNSON, PLLC
130 North Court Ave.
Memphis, TN 38103
Telephone: (901) 524-5000
nbicks@bpjlaw.com
sstuart@bpjlaw.com

Aubrey B. Harwell, Jr. (TN BPR #002559)

Charles Barrett (TN BPR #020627)
Aubrey B. Harwell III (TN BPR #017394)
NEAL & HARWELL, PLC
1201 Demonbreun St., Suite 1000
Nashville, TN 37203
Telephone: (615) 244-1713
aharwell@nealharwell.com
cbarrett@nealharwell.com
tharwell@nealharwell.com

*Admitted pro hac vice

*Counsel in the Fusion Elite Action for the
Proposed Direct Purchaser Class*

Joseph R. Saveri*
Steven N. Williams*
Ronnie Seidel Spiegel*+
Kevin E. Rayhill*
Elissa A. Buchanan*
JOSEPH SAVERI LAW FIRM, LLP
601 California Street, Suite 1000
San Francisco, California 94108
Telephone: (415) 500-6800
Facsimile: (415) 395-9940
jsaveri@saverilawfirm.com
swilliams@saverilawfirm.com
rspiegel@saverilawfirm.com
krayhill@saverilawfirm.com
eabuchanan@saverilawfirm.com

Van Turner (TN Bar No. 22603)
BRUCE TURNER, PLLC
2650 Thousand Oaks Blvd., Suite 2325
Memphis, Tennessee 38118
Telephone: (901) 290-6610
Facsimile: (901) 290-6611
Email: vturner@bruceturnerlaw.net

Richard M. Paul III*
Sean R. Cooper*
Ashlea Schwarz*
PAUL LLP
601 Walnut, Suite 300
Kansas City, Missouri 64106
Telephone: (816) 984-8100

rick@paulllp.com
sean@paulllp.com
ashlea@paulllp.com

Jason S. Hartley*
HARTLEY LLP
101 West Broadway, Suite 820
San Diego, CA 92101
Telephone: (619) 400-5822
Email: hartley@hartleyllp.com

Daniel E. Gustafson*
Daniel C. Hedlund*
Daniel J. Nordin*
GUSTAFSON GLUEK PLLC
Canadian Pacific Plaza
120 South Sixth Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 333-8844
Facsimile: (612) 339-6622
dgustafson@gustafsongluek.com
dhedlund@gustafsongluek.com
dnordin@gustafsongluek.com

*Attorneys in the Jones Action for Individual and
Representative Plaintiffs*

* Admitted pro hac vice
+Located in Washington State

Robert A. Falanga*
Kobelah Svensen Bennah*
LAW OFFICES
FALANGA & CHALKER
11200 Atlantis Pl #C
Alpharetta, GA 30022
Phone: (770) 955-0006
Fax: (770) 955-2123

*Interim Lead Class Counsel for the Proposed
Independent Event Production Class, the
Competitive Recreational, College, High School
or Junior High School Student Parent Class, the
Apparel, Athletic Equipment and Merchandise
Class, and the Cheer Camp Market Class*

** Admitted pro hac vice*

By: /s/ Nicole D. Berkowitz

Grady Garrison (TN #008097)
Nicole D. Berkowitz (TN #35046)
James Andrew Roach (TN #37934)
Karen Lott Glover (TN #38714)
BAKER, DONELSON, BEARMAN, CALDWELL
& BERKOWITZ
165 Madison Avenue, Suite 2000
Memphis, TN 38103
Phone: (901) 526-2000
Fax: (901) 577-0866
ggarrison@bakerdonelson.com
nberkowitz@bakerdonelson.com

*Attorneys for U.S. All Star Federation, Inc. and
USA Federation for Sport Cheering, d/b/a USA
Cheer*

By: /s/ Matthew S. Mulqueen

George S. Cary*
Steven J. Kaiser*
Linden Bernhardt*
CLEARY GOTTlieb STEEN & HAMILTON LLP
2112 Pennsylvania Avenue, NW
Washington, DC 20037
Phone: (202) 974-1500
Fax: (202) 974-1999
gcary@cgsh.com
skaiser@cgsh.com
lbernhardt@cgsh.com

Jennifer Kennedy Park*
Heather Nyong'o*
CLEARY GOTTlieb STEEN & HAMILTON LLP
1841 Page Mill Road, Suite 250
Palo Alto, CA 94304
Phone: (650) 815-4100
Fax: (202) 974-1999
jcpark@cgsh.com
hnyongo@cgsh.com

** Admitted pro hac vice*

Matthew S. Mulqueen (TN #28418)
Adam S. Baldridge (TN #23488)
BAKER, DONELSON, BEARMAN, CALDWELL &
BERKOWITZ
165 Madison Avenue, Suite 2000
Memphis, TN 38103
Phone: (901) 526-2000
Fax: (901) 577-0866
mmulqueen@bakerdonelson.com
abaldridge@bakerdonelson.com

*Attorneys for Varsity Brands, LLC; BSN Sports, LLC;
Varsity Spirit, LLC; Stanbury Uniforms, LLC; Herff
Jones, LLC; Varsity Brands Holding Co., Inc.; Varsity
Spirit Fashions & Supplies, LLC; Varsity Intropa
Tours*

By: /s/ Brendan P. Gaffney

Paul E. Coggins*
Brendan P. Gaffney*
Kiprian E. Mendrygal*
Jennifer McCoy*
LOCKE LORD LLP
2200 Ross Avenue, Suite 2800
Dallas, TX 75201
Phone: (214) 740-8000
Fax: (214) 740-8800
pcoggins@lockelord.com
bgaffney@lockelord.com
kmendrygal@lockelord.com
Jennifer.mccoy@lockelord.com

* Admitted *pro hac vice*

Edward L. Stanton III (TN Bar #018904)
S. Keenan Carter (TN #023386)
BUTLER SNOW LLP
6075 Poplar Avenue, Suite 500
Memphis, Tennessee 38119
Telephone: (901) 680-7336
Facsimile: (901) 680-7201
Edward.Stanton@butlersnow.com
Keenan.carter@butlersnow.com

Attorneys for Jeff Webb

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 18th day of April, 2022, the foregoing was filed electronically. Notice of this filing will be sent by way of the Court's CM/ECF electronic filing system and/or via U.S. Mail, prepaid postage, to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

/s/ Benjamin A. Gastel
Benjamin A. Gastel